

APPEAL NO. 022096
FILED OCTOBER 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 17, 2002. The hearing officer determined that the compensable injury sustained by the appellant (claimant) on _____, does not extend to nor include arrhythmia, high blood pressure, mental depression and anxiety, and that the claimant is not entitled to reimbursement for travel expenses from July 16 through September 24, 2001. On appeal, the claimant expresses disagreement with these determinations. The respondent (carrier) responds, urging affirmance.

DECISION

We affirm.

In deciding whether the hearing officer's decision is sufficiently supported by the evidence, we will only consider the evidence admitted at the hearing. Generally, we will not consider evidence not submitted into the record, and raised for the first time on appeal. Texas Workers' Compensation Commission Appeal No. 92255, decided July 27, 1992. To determine whether evidence offered for the first time on appeal requires that case be remanded for further consideration, we consider whether it came to the appellant's knowledge after the hearing, whether it is cumulative, whether it was through lack of diligence that it was not offered at the hearing, and whether it is so material that it would probably produce a different result. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). We do not find that to be the case with the two documents that the claimant attached to her appeal and decline to give them consideration.

At issue in this case is whether the hearing officer erred in determining that the compensable injury sustained by the claimant does not extend to the claimed conditions and that the claimant is not entitled to reimbursement for travel expenses incurred between July 16 and September 24, 2001. Extent of injury is a question of fact for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. Nothing in our review of the record indicates that the hearing officer's extent-of-injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

With regard to the request for reimbursement of travel expenses, the hearing officer explained that the trips in question were made to two doctors and that the claimant was not entitled to reimbursement for any of the expenses incurred in traveling

to the doctors. One of the doctors was treating the claimant for conditions not related to the compensable injury. The hearing officer denied reimbursement for these expenses and that determination is affirmed. The hearing officer found that the trips to the other doctor were less than 20 miles in distance each way and that, pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § Rule 134.6(b)(2) (Rule 134.6(b)(2)), the claimant was not eligible for reimbursement for the incurred travel expenses. We perceive no error in the hearing officer's resolution of the travel expense issue.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge